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10/566,061

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EXAMINER

BAINBRIDGE, ANDREW PHILIP

ART UNIT

PAPER NUMBER

3754

MAIL DATE

DELIVERY MODE

06/22/2011

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|--------------------------------------|---------------------------------------|--|
| Office Action Summary | Application No. 10/566,061 | Applicant(s) PAKKERT ET AL. | |
| | Examiner ANDREW BAINBRIDGE | Art Unit 3754 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 May 2011.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-6,8-12 and 15-23 is/are pending in the application.
- 4a) Of the above claim(s) 6,12 and 15 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-5,8-11 and 16-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 May 2011 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings were received on 5/24/2011. These drawings are accepted.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

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5. **Claims 2-5, 8-11, 19-20 and 21-23 are rejected under 35 U.S.C. 103(a)** as

being unpatentable over US 3,233,780, W.E. Cheeley in view of US 4,479,520, Holben.

6. Cheeley in figures 1-9 discloses a pressure medium container 16, in at least one embodiment carbon dioxide (col. 1, ll. 35-45, ll. 65-72) that assists preventing a dispensable fluid, in at least one embodiment beer from being served flat (col. 1, ll. 35-45, ll. 65-72), the beer is stored in a surrounding fluid container 10, 28 that is selectively dispensed from a long tube 94 and an attached valve and tube arrangement 80, 82, 86, 88 (see figure 4), the pressure medium container 16 is selectively removable and securable to the beer keg container 10 (col. 2, ll. 1-10, ll. 60-75), the pressure medium chamber 16 provides the pressurized carbon dioxide to the beer fluid 28 by means of a pressure regulator that connects the two fluid chambers when the pressure in the beer chamber 10, 28 is too low, and closes the passage between the two chambers once a pre-determined pressure is achieved. The pressure medium chamber 16 has a "pop-off valve" 22 that is depressed downwardly to open the passage 47 to 40 to 42 to 26 and out to 28, see figure 6) between the space 28 above the chamber 16, the space above the chamber 28 is always fluidly communicating with the beer keg chamber 10, 28 by means of a permanently opened portal 122 in a bracing member (96 in one embodiment, and element 110 in another, see figure 8). Directly above the pop-off valve 22 is a diaphragm 50 that pops downwardly when the pressure in the space above the pressure medium container 28 is too low to withstand the higher set pressure regulating pressure of the air captured intentionally within the "fluid expansion capsule" 54 (see figure 4) that is bounded by a lower diaphragm 50, 52, crimped at 61 and

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bounded on top by a cover 58, with a sealed valve 62, 64 to add or remove the captured air in the capsule 54. When a person draws a beer from the valve 86 beer is drawn up the tube 94 from the beer chamber 10, 28, which lowers the pressure in both the beer chamber 10, 28 and also the space above the pressure medium chamber 16, 28, which in turn creates a downward force from the diaphragm 50, 52 due to the heightened pressure difference between the capsule 54 and the space below 28, which opens the pop-off valve 22, which allows pressurized carbon dioxide to re-pressurize the chamber, in at least one embodiment to a pressure of below 10 psig (col. 4, ll. 35-55).

Cheeley does not have the pressure regulator having an end wall, a peripheral wall and a piston that can be moved in the housing along a peripheral wall in a sealed manner with an upper housing part in the side of the piston that faces the end wall and a lower housing part that partially surrounds the delivery valve, the upper housing is cylindrically shaped with a threaded screw head that allows the volume of the upper housing to vary, has a spring to push down on the piston face and is in fluid communication with the atmosphere through a small opening. Cheeley does teach a pressure regulator that uses a pop-off valve and an air capsule with a diaphragm. Holben in figures 1-7, especially figures 3-4, teaches a pressure regulator 62, 66, 74 that is selectively attached to a source 12 of highly pressurized carbon dioxide to pressurize a soda beverage (The Coca-Cola Company owns the patent) through an outlet 18, the pressure regulator 62 has a diaphragm 76 with a piston head 78 that can selectively push open 80 a valve 94 overcoming a spring 98 to open a passage between the pressure source 12 and the outlet line 18, the pressure regulator 62 having

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a piston face 76, 78, an end wall 84, a peripheral wall 74 (all the way down to the valve bushing 92) with an upper housing part (the space between the end wall 84 and the diaphragm 76 that can be increased or reduced in volume by screwing the end wall 84 further or closer in the threads (see threads near 84 in figure 4), that also has a spring 86 that can have its tension adjusted by moving the end wall 84, the end wall 84 having a hole in its center (figure 4, the center of 84, not labeled) that serves to create a fluid passage to the atmosphere from the upper housing which is present to allow a user to use an allen wrench to screw in or unscrew the end wall face 84, a lower housing is formed below the diaphragm 76 all the way down to valve seat 96. It would be obvious to one of ordinary skill in the art to borrow the teaching of a pressure regulator based on adjustable end walls and springs from Holben and replace the pressure regulator of Cheeley with the Holben one because then the gauge pressure of the pressure regulator of Cheeley could be adjusted with a simple turn of an allen wrench.

7. **Claims 16-18 are rejected under 35 U.S.C. 103(a)** as being unpatentable over Cheeley in view of Holben and US 5,586,571, Guillermo.

8. Cheeley in view of Holben have all of the structural elements of claims 16-20 except for explicitly teaching using a "closure tool: to connect the pressure regulator to the fill opening. Although it is arguable that the Cheeley pressure regulator as modified by Holben could be attached by a wrench, Guillermo in figures 1-21 teaches an entire tool set as shown in figure 21, including a male allen wrench 47 and a female socket driver tool 26, so that whether the connection is male or female, the Guillermo tools can connect the parts together. It would be obvious to one of ordinary skill in the art to

borrow the teaching of using a whole set of tools from Guillermo and add these tools and their use to the Cheeley-Holben combination because ensuring that a pressure regulator is tightly secured in place is very important for a correctly functioning beer keg.

The Cheeley-Holben-Guillermo combination device is readily capable of performing the methods recited in claims 16-18.

Response to Arguments

9. Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection. This is a Final Rejection. The attorney of record is encouraged to contact the examiner to discuss the claims in order to expedite the prosecution of this application.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANDREW BAINBRIDGE whose telephone number is (571)270-3767. The examiner can normally be reached on Monday - Friday 9 AM to 6 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on 571-272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/A. B./
Examiner, Art Unit 3754

/KEVIN P. SHAVER/
Supervisory Patent Examiner, Art
Unit 3754